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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,498	02/19/2004	Brian Farn	CA920030061US1	5645
35525	7590	05/25/2010		
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			EXAMINER HAILU, TADESSE	
			ART UNIT 2173	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN FARN

Appeal 2009-010155
Application 10/782,498
Technology Center 2100

Before Kimberly R. Jordan, *Division 1 Support Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This is a Director ordered remand under 37 CFR §41.35(c) for the matter identified below. Accordingly, the application is herewith being remanded to the Examiner.

This application was electronically received at the Board of Patent Appeals and Interferences on May 5, 2009. A Docketing Notice was mailed and Appeal No. 2009-010155 was assigned on May 20, 2009.

Claim 22 of the instant application contains functional language that may be indefinite under 35 U.S.C. § 112, 2nd paragraph. *See Ex Parte*

Rodriquez, 2009 WL 3756279 (BPAI 2009) and *Aristocrat Techs. Austl. Pty. Ltd. v. It'l. Game Tech.*, 521 F.3d 1328 (Fed Cir. 2008). On September 2, 2008, the Deputy Commissioner for Patent Examination Policy, John J. Love, issued a memorandum entitled "Rejections under 35 U.S.C. 112, second paragraph, when examining means (or step) plus function claim limitations under 35 U.S.C. 112, sixth paragraph", located at: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_112_6th_09_02_2008.pdf. Thus, there is a question as to whether claim 22 and the claims which depend upon this claim, meet the requirements of being definite under 35 U.S.C. § 112, 2nd paragraph.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claim 22 and the claims which depend upon this claim, meet the requirements of 35 U.S.C. § 112, 2nd paragraph.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

peb

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